

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NANCY MAHAN,
Plaintiff,

v.

UNUM LIFE INSURANCE COMPANY OF
AMERICA,
Defendant.

Case No. 13-cv-04803-VC

**ORDER DENYING CROSS-MOTIONS
FOR SUMMARY JUDGMENT;
DENYING MOTION TO STRIKE;
DENYING MOTION FOR JUDICIAL
NOTICE**

Re: Docket Nos. 64, 66, 73, 81

Because the record reveals a risk that UNUM's conflict of interest adversely affected its treatment of Mahan's claim, which would impact the degree of scrutiny applied and could potentially affect the outcome, Mahan is permitted to conduct limited discovery on that issue. This discovery cutoff is December 18, 2014. The cross-motions for summary judgment are denied without prejudice to refile after conflict discovery has concluded. The motion to strike and the motion for judicial notice are denied as moot.

By September 25, 2014, the parties shall file a stipulation that: (i) either requests assignment to a specific magistrate judge for a settlement conference or requests that the case be assigned randomly to a magistrate for that purpose; and (ii) sets forth a briefing schedule for cross-motions for summary judgment following the completion of conflict discovery. In their summary judgment papers, the parties should discuss the propriety of UNUM's suggestion, made at the hearing, that the question whether Mahan's claim for "buy up" coverage based on the ankle injury should be remanded to UNUM, and if so, whether this Court should retain jurisdiction over the case while it is on remand. If the parties determine that the conflict discovery cutoff should be extended in light of the date on which their settlement conference with a magistrate judge is

1 scheduled, they may submit to this Court a stipulated request for an extension.

2 **IT IS SO ORDERED.**

3 Dated: September 19, 2014



VINCE CHHABRIA
United States District Judge

United States District Court
Northern District of California